

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:

CASE NO. 6:18-BK-05703-KSJ

CHAPTER 13

SORAIDA WENDY PEREZ,

Debtors

/

OBJECTION TO MOTION TO MODIFY PLAN

U.S. BANK TRUST NATIONAL ASSOCIATION, AS TRUSTEE OF THE CABANA SERIES III TRUST ("Secured Creditor"), by and through its undersigned attorney, objects to the Debtor's Motion to Modify Chapter 13 Plan ("Motion")(DE 37), and in support thereof states as follows:

1. Secured Creditor maintains a security interest in Debtor's real property located at 5811 LORD STREET, MIMS, FL 32754.

2. Secured Creditor's filed Proof of Claim #3-1 in the amount of \$86,000.00, with a pre-petition arrearage of \$6,055.00. The Proof of Claim indicated the monthly payment due to Secured Creditor at petition filing was \$513.79.

3. Secured Creditor subsequently filed Notices of Mortgage Payment Change, indicating that the new monthly payment due effective August 1, 2019 was \$588.31 and effective February 1, 2020 was \$585.94.

4. The Debtor's Plan includes pre-petition arrearage and post-petition payments to Secured Creditor, however, the post-petition amounts do not conform to those indicated in the filed Proof of Claim and Notices of Payment Change.

5. The Debtor's Plan provides for payments as follows versus those amounts due to Secured Creditor:

POC

Arrearage - 6500.00

Post Pet Pmt

10/1/18 - 7/1/19 - 513.79 = 5137.90

8/1/19 - 1/1/20 - 588.31 = 3529.86

2/1/20 - 9/1/25 - 585.94 = 39843.92

Total = 48511.68

Plan

Arrearage

1-6 - 0

7-20 - 310.00 = 4340.00

21-22 - 0

23-35 - 48.00 = 624.00

36-51 - 50.00 = 800.00

52-55 - 100.00 = 400.00

56 - 90

57-60 - 50.00 = 200.00

61 - 46.00

Total = 6497.00

Post Pet Pmt

1-10 - 560.00 = 5600.00

11-16 - 588.31 = 3529.86

17-20 - 585.94

21-22 - 0

23-80 - 585.94 = 33984.52

81 - 857.82

82-84 - 885.94 = 2657.82

Total = 47215.96

6. Thus, Secured Creditor objects to the Debtors' Plan as it fails to comply with the requirements of 11 U.S.C. §§ 1322(b)(3) and 1325(a)(5), and cannot be approved.

WHEREFORE, Secured Creditor, U.S. BANK TRUST NATIONAL ASSOCIATION, AS TRUSTEE OF THE CABANA SERIES III TRUST, respectfully requests that this Court deny the Debtor's Motion to Modify Chapter 13 Plan, that Secured Creditor be granted its Attorney's fees and costs associated with the filing of this Objection, and such other relief as the Court deems just and proper.

Respectfully submitted,
HOWARD LAW GROUP

/s/ Matthew Klein
MATTHEW KLEIN
FLORIDA BAR#: 73529
4755 Technology Way, Suite 104
Boca Raton, FL 33431
Telephone: 954-893-7874
Fax: 888-235-0017
Email: matthew@howardlaw.com

I HEREBY CERTIFY that on August 3, 2020, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System, which will send a notice of electronic filing to all CM/ECF participants:

Paul L. Urich, Esq., 1510 East Colonial Drive, Suite 204, Orlando, FL 32803

Laurie K. Weatherford, Trustee, PO Box 3450, Winter Park, FL 32790

Office of the US Trustee, 400 West Washington Street, Suite 1100, Orlando, FL 32801

and a true and correct copy was mailed to the non-CM/ECF participants:

Soraida Wendy Perez, PO Box 272, Scottsmeer, FL 32775

/s/ Matthew Klein
MATTHEW KLEIN
FLORIDA BAR#: 73529